

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

DA 95 - 2479

In the Matter of)
) Transmittal No. 790
Alascom, Inc.)
Tariff F.C.C. No. 11) CC Docket No. 95-182
)

ORDER

Adopted: December 14, 1995 ; Released: December 14, 1995

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On September 22, 1995, Alascom, Inc. (Alascom) filed revisions to its Tariff F.C.C. No. 11 under Transmittal No. 790. That transmittal establishes a new market structure under which Alascom offers interstate transport and switching services in compliance with the rulings of the Federal-State Joint Board and the Commission in CC Docket No. 83-1376. For the reasons stated below, we conclude that Alascom's proposed tariff revisions raise significant questions of lawfulness. We therefore suspend Transmittal Nos. 790 and 797 for one day and initiate an investigation of these transmittals.

II. BACKGROUND

2. In CC Docket No. 83-1376, the Joint Board conducted a comprehensive review of the telecommunications market structure of the state of Alaska, culminating in the release of a *Final Recommended Decision* in 1993.¹ That decision was adopted, with clarifications and minor modifications, by the Commission in 1994.² The Commission's

¹ Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, Final Recommended Decision, 9 FCC Rcd 2197 (1993) (*Final Recommended Decision*).

² Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, Memorandum Opinion and Order, 9 FCC Rcd 3023 (1994) (*Order Adopting FRD*).

decision required Alascom and AT&T Corp. (AT&T) to terminate, as of January 1, 1996, the Joint Service Arrangement (JSA) under which they had provided interstate telecommunications service to and from Alaska. Alascom and GCI each provide interexchange carriers with transport and switching, within Alaska, for interstate traffic. Alascom provides interconnection with virtually every local exchange carrier in the state while GCI currently provides service only to larger towns and cities within the state. Thus, Alascom is the only provider of these services to the remote communities which are defined by the Commission as "Bush."³

3. The Commission, in its *Order Adopting FRD*, required Alascom to provide tariffed interstate transport and switching services needed to complete the long distance services of interexchange carriers.⁴ Because Alascom's costs of providing service to Bush and non-Bush locations may be significantly different, Alascom was required to divide its service area into two major geographic rate zone cost categories, corresponding to each of these types of locations.⁵ The Commission also required Alascom to establish certain accounting safeguards to address the potential for Alascom to assign facilities costs from its competitive non-Bush locations to its monopoly Bush locations. The Commission directed Alascom to incorporate those accounting safeguards in a Cost Allocation Plan (CAP) and to file the CAP for approval by the Commission.⁶

4. Alascom originally filed its CAP on August 29, 1994. After receiving public comment on the plan, the Common Carrier Bureau found the CAP deficient because it did not clearly explain how Alascom intends to allocate its costs between Bush and non-Bush locations, and failed to comply with the applicable cost allocation requirements.⁷ On July

³ The term "Bush" commonly refers to small villages in rural Alaska that are isolated from the larger cities by rugged terrain and harsh weather conditions. In addressing Alaska common carrier telecommunications matters, the Commission adopted a more technical definition. See *Final Recommended Decision*, 9 FCC Rcd at 2206-07; *Order Adopting FRD*, 9 FCC Rcd at 3023; *Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska*, 96 FCC 2d 522, 541 (1984); *Second Report and Order in the Matter of MTS/WATS Market Structure Inquiry*, 92 FCC 2d 787, 789, 843-45 (1982).

⁴ *Order Adopting FRD*, 9 FCC Rcd at 3033.

⁵ *Final Recommended Decision*, 9 FCC Rcd at 2205.

⁶ *Final Recommended Decision*, 9 FCC Rcd at 2206.

⁷ Alascom, Inc., Cost Allocation Plan for the Separation of Bush and non-Bush Costs, Order, 10 FCC Rcd 4963, 4963 nn 7 and 8 (Com. Car. Bur. 1995) (*CAP Rejection Order*) (Stated that the Commission had required Alascom's cost allocation studies to comply with

3, 1995, Alascom filed a revised plan and, after receiving public comment, the Bureau approved it. The Bureau concluded that Alascom's revised CAP provides sufficient explanations of its methodologies for direct assignment and direct attribution, and allocation of costs to ensure that, if the CAP is applied correctly, these costs will be reasonably apportioned between Bush and non-Bush services.⁸ The *CAP Approval Order* required Alascom to review its CAP and file any changes within sixty days after the release of that order.⁹ General Communication, Inc. (GCI) filed a petition for reconsideration of the Bureau's *CAP Approval Order*.¹⁰ That petition is currently pending.

5. Alascom filed Tariff F.C.C. No. 11, Transmittal No. 790 on September 22, 1995. It allocated costs between Bush and non-Bush locations based on the list of 14 non-Bush locations contained in the July 3rd CAP.

6. In response to the Bureau's direction in the *CAP Approval Order*, Alascom filed a revised CAP on November 13, 1995 that increased the number of sites designated as non-Bush from 14 to 33. Alascom stated that, upon further review, it determined that facilities-based competition between two or more interexchange carriers currently exists at a larger number of locations in Alaska and has proposed to classify 19 additional areas as non-Bush. On December 14, 1995, Alascom filed Transmittal No. 797 to revise the rates in its Tariff F.C.C. No. 11 to reflect the November 13, 1995 revisions to the CAP.

III. SUMMARY OF PLEADINGS

7. On October 10, 1995, GCI filed a petition to reject or, alternatively, to suspend and investigate Alascom Transmittal No. 790. GCI contends that in developing its rates for service to Bush and non-Bush areas Alascom failed to adhere to the definition of "Bush" adopted by the Commission. Specifically, GCI claims that Alascom has designated many communities as Bush locations that should be designated as non-Bush areas. Consequently, GCI argues, Alascom's proposed rates are based on a cost allocation

Sections 32.27 and 64.901-64.904 of the Commission's rules, 47 C.F.R. §§ 32.27 and 64.901-64.904.)

⁸ Alascom, Inc., Cost Allocation Plan for the Separation of Bush and non-Bush Costs, Order, DA No. 95-1902 (Com. Car. Bur., rel. Sept. 11, 1995) (*CAP Approval Order*).

⁹ *CAP Approval Order*, DA 95-1902, at ¶ 18.

¹⁰ GCI Petition for Reconsideration (filed Oct. 11, 1995) GCI provides a network that connects various points within the non-Bush areas of Alaska in competition with Alascom.

plan that overstates the costs attributable to Bush service and understates the costs attributable to non-Bush service.¹¹

8. GCI also argues that Alascom incorrectly determined its proposed rates for switching services. GCI contends that the rates for Bush and non-Bush switching should be the same because Alascom uses the same switches for both and has no switches located in the Bush. GCI further contends that Alascom erred in using interstate minutes of use that terminate or originate in Anchorage to compute its intra-Alaska transport rates. GCI argues that, since all interstate traffic that originates or terminates in Anchorage can go directly between the interstate facilities -- the satellite network or the undersea cable -- and the local exchange carrier's facilities, such traffic is never carried on Alascom's intra-Alaska transport network and therefore should not be included in calculating demand for transport service. GCI asserts that approximately half of all Alaska interstate traffic originates or terminates in Anchorage and inclusion of that usage in the demand calculation would seriously distort the intra-Alaska transport rate.¹² GCI further asserts that Alascom offered to reclassify any location from Bush to non-Bush as soon as it is served by a competing supplier. GCI contends that, under this approach, Alascom would be erroneously classifying a location as having high or low costs of service based not on the location's inherent costs of service, but on the presence in that location of a competing carrier.¹³ GCI further submits that Transmittal No. 790 violates the Commission's requirements that all services provided between AT&T and Alascom be offered to other carriers and tariffed or embodied in a publicly filed contract. For example, GCI claims that, the transmittal does not include services such as credit card validation and Signalling System 7 that AT&T provides to Alascom.¹⁴ Finally, GCI asserts that there are numerous inconsistencies and defects in the data that Alascom has provided to support its rates. GCI claims that, among other things, these inconsistencies raise doubts about the reliability of the computer model that Alascom used to develop its rates.¹⁵

9. Alascom replies that the revised CAP that it filed in July 1995 identified 14 non-Bush locations in which Alascom determined that facilities-based competition existed at that time, and that the Common Carrier Bureau subsequently approved that plan.

¹¹ GCI Petition To Reject or in the Alternative, Suspend and Investigate, filed October 10, 1995, at 6-7.

¹² *Id.* at 8-9.

¹³ *Id.* at 9-10.

¹⁴ *Id.* at 10-11.

¹⁵ *Id.* at 11-13.

Alascom argues that GCI's objections are either moot or premature in light of the Bureau's approval of Alascom's revised CAP and its directive that Alascom revise its CAP prior to the effective date of the tariff.¹⁶ Alascom argues that its rates for switching services for Bush locations should be higher because they are typically isolated and subject to severe weather conditions.¹⁷ Alascom further maintains that the Joint Board and the Commission have already rejected the arguments concerning allocation methodology that GCI is asserting against Transmittal No. 790 and, as a result, GCI is procedurally barred from pursuing those arguments at this time.¹⁸ Alascom also takes issue with GCI's argument that the disparities between Alascom's Bush and non-Bush rates are highly suspect since costs, GCI contends, are allocated largely on the basis of usage. Alascom disputes GCI's arguments that Alascom's rates are distorted by the inclusion of Anchorage minutes of use in the calculation of demand for transport services. Alascom states that it uses nine different methods of allocation, only one of which is total network demand. Alascom argues that, therefore, the specific allocators used by Alascom are based on cost causation.¹⁹

IV. DISCUSSION

10. The Common Carrier Bureau has reviewed Alascom's Tariff F.C.C. No. 11, Transmittal No. 790, and the related pleadings. We conclude that the questions that GCI has raised about the cost support that Alascom has provided for the rates in this transmittal require further investigation. Moreover, the Bureau has identified certain terms and conditions in the tariff that may be inconsistent with the requirements of the Communications Act, the Commission's rules or Commission orders. For example, we found that the transmittal does not contain the minimum service standards that the Commission directed Alascom to include in its tariff and that the transmittal restricts availability of the offering to interexchange carriers.²⁰ The Bureau concludes, therefore,

¹⁶ Alascom Reply, filed October 23, 1995, at 4. Alascom filed a revised CAP on November 13, 1995, in compliance with the requirements of the *CAP Approval Order*. See n 8, *supra*.

¹⁷ *Id.* at 7. Alascom did not address GCI's contention that there are no switches in Bush locations.

¹⁸ Alascom Reply at 8.

¹⁹ *Id.* at 9. Alascom states that the other eight allocation factors are responsible for the assignment of 69 percent of the operating expenses and 49 percent of the investment.

²⁰ Alascom proposes to restrict availability of services under this tariff to interexchange carriers. See Alascom Tariff F.C.C. No. 11, Transmittal No. 790, Sections 1 ("This tariff

that significant questions of lawfulness have been raised concerning Alascom's Transmittal Nos. 790 and 797. Accordingly, the Bureau will suspend Transmittal Nos. 790 and 797 for one day and initiate an investigation of those transmittals. Additionally, in this Order, we impose an accounting order on the rates proposed in Transmittal Nos. 790 and 797 to facilitate any refunds that may later become necessary.

V. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that Alascom Tariff No. 11, Transmittal Nos. 790 and 797, ARE SUSPENDED for one day.

12. IT IS FURTHER ORDERED that, pursuant to Sections 4(i), 204(a), 205(a), and 403 of the Communications Act, 47 U.S.C. §§ 4(i), 204(a), 205(a), and 403, an investigation IS INSTITUTED into the lawfulness of Alascom Tariff F.C.C. No. 11, Transmittal Nos. 790 and 797.

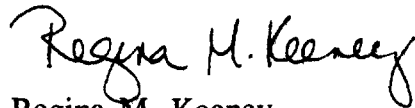
13. IT IS FURTHER ORDERED that AT&T SHALL FILE revisions advancing the effective date of Tariff F.C.C. No. 11 to December 31, 1995, and suspending the effective date to January 1, 1996. This filing shall be made no later than December 15, 1994. Alascom, Inc. shall cite the "DA" number of this order as authority for this filing. Sections 61.56, 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.56, 61.58 and 61.59, ARE WAIVED for the purposes of this filing.

14. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), Alascom, Inc. shall keep accurate account of all amounts received by reason of the rates that are the subject of this investigation.

contains regulations...applicable to the provision of Common Carrier Services...to interexchange common carriers....") 2.1.2.A ("The services the Company offers shall not be used for any use for which the Customer has not obtained all required governmental approvals, authorization, (sic.) licenses, consents and permits.") and 2.8 (defines "Customer" as "The Interexchange Carrier which orders service...").

15. IT IS FURTHER ORDERED that the petition to reject or suspend and investigate Transmittal No. 790, filed by GCI Communications IS GRANTED to the extent discussed above and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Regina M. Keeney".

Regina M. Keeney
Chief, Common Carrier Bureau